

# ***“A” GRADES IN SAN DIEGO COUNTY RESTAURANTS, DESERVED OR NOT?***

## ***SUMMARY***

The 2006-2007 San Diego County Grand Jury conducted a study of the County of San Diego, Department of Environmental Health's (DEH) grading system of county restaurants. In early September, the Grand Jury met with DEH, Food and Housing Division to become familiar with guidelines and procedures with respect to sanitation and safety in county food service establishments. At issue is whether the DEH is acting vigilantly to enforce compliance.

The DEH, Food and Housing Division serve the following functions:

- Creates guidelines governing the operation of food service facilities
- Enforces those guidelines through the process of inspection
- Penalizes establishments not in compliance with either a lowered letter grade (posted clearly in the windows of these facilities) or closure of such facilities that are at risk of infecting the public with food borne illness
- Informs the public of such closures

## ***PURPOSE***

This inquiry was based on the Grand Jury's observations that many "A" grades in county establishments may or may not have been deserved. Questions about how grading is conducted and enforced led to the decision to ascertain whether the DEH is thorough in its inspections and aggressive in enforcing compliance.

## ***PROCEDURES***

### ***Reviewed:***

- Grand Jury reports to determine if such a study had been previously done
- Studied the California Uniform Retail Food Facility Law (CURFFL) which will be replaced July 1, 2007, with the new California Retail Food Code (SB-144)
- Reviewed the Hazard Analysis Critical Control Point (HACCP) Principles for Operators of Food Service and Retail Establishments
- Reviewed the County of San Diego, Retail Food Facility Operator's Guide

- Collected additional documentation from the DEH, Food and Housing Division regarding specific guidelines for the operation of food service establishments
- Researched DEH, Food and Housing Division website for further information regarding restaurant grading

***Interviewed:***

- Department of Environmental Health, Food and Housing Division officials
- DEH, Registered Environmental Health Specialists (hereinafter referred to as REHS inspectors)

***Visited:***

- Numerous area food service establishments, including fast food restaurants, mall food court outlets, coffee shops, hospitals and an elementary school

***DISCUSSION***

The question arose as to whether there are an inordinate number of “A” grades at San Diego County restaurants. The Grand Jury felt that this needed to be probed inasmuch as individual observances in other counties revealed a significant number of restaurants that had either been downgraded or closed because of lack of compliance with county, state and federal requirements or exposure of consumers to food borne illness.

The Grand Jury embarked on a series of interviews, at which time the grading guidelines were explained. They are “A” – 90-100 points; “B” – 80-89 points, “C” below 80 points, which is for all intents and purposes a failing grade. Establishments can receive a “C” grade and remain open pending major changes or improvements within 30 days or risk closure.

Jurors subsequently visited ten area food service establishments and were introduced to the application of these guidelines firsthand, per the DEH Food Facility Self-Inspection Checklist (Appendix A), with respect to the general cleanliness of a facility and its employees, as well as proper receiving and storage of food preparation materials. In addition, Jurors observed proper preparation, clean up and refuse disposal.

During these visits the REHS inspector briefed us on what steps might be taken at a food service establishment with violations to bring it back into compliance with the laws.

The DEH, Food and Housing Division informed the Grand Jury of its plans to create a website that announces closures; reasons for the closures and what must be done to regain an “A” rating.

The Department of Environmental Health does an exemplary job within its current guidelines. With the addition of a few more REHS Inspectors, San Diego County’s food service industry could be a model for the rest of the country as many consider it already to be.

## ***FACTS AND FINDINGS***

***Fact:*** There are 12,000 permanent food service facilities in San Diego County that include but are not limited to retail food outlets, restaurants, commercial facilities, food court facilities, stadium facilities, freestanding facilities such as coffee carts and food kiosks.

***Fact:*** There are currently 48 fulltime Registered Environmental Health Specialists to inspect these 12,000 establishments (not including re-inspections of facilities with lowered grades or closures).

***Finding:*** Pressure is high for REHS inspectors to manage regular visits.

***Fact:*** The Department of Environmental Health has a Certified Food Service Worker program that new restaurant job applicants must pass before employment.

***Finding:*** In order to reduce food borne illness, which is a serious concern for county residents who frequent these establishments, the county requires food service workers to be trained in proper food handling techniques.

***Fact:*** Currently in San Diego County there is no screening requirement for tuberculosis for food service workers.

***Finding:*** Tuberculosis, an airborne, infectious disease is an ongoing health concern particularly with the rise of drug resistant strains.

***Fact:*** There is no requirement for the use of plastic or food grade latex gloves in food preparation at this time.

***Finding:*** The use of gloves when preparing food would reduce the risk of food borne illness.

***Fact:*** There is currently no formal means of communication for informing the public of restaurant closures and the outcome of subsequent inspections.

## ***RECOMMENDATIONS***

**The 2006-2007 San Diego County Grand Jury recommends that the County of San Diego Department of Environmental Health, Food and Housing Division amend its policies to include the following:**

- 07-08:** Establish policy whereby annual tuberculosis screening is required of all food service employees.
- 07-09:** Insist that food service establishments provide and ***require*** the use (and frequent change) of either plastic or food grade latex gloves when using hands to prepare food such as sandwiches and salads as well as meat and vegetable cutting.
- 07-10:** Enact a requirement that all permanent food service establishments provide rubber mats on the floor for all food preparation and dishwashing areas to prevent slip and fall accidents.
- 07-11:** Establish guidelines whereby restaurant closures are immediately reported to all media including the date and reasons for closure.
- 07-12:** Create a “consumer friendly” website that would include only the following information:
- Restaurant name and location, alphabetically
  - Date of closure
  - Reason for closure
  - Date reopened
  - Result of follow up inspection (to be performed within a specific period)
  - Retain closure information on website for a period of one year

**The 2006-2007 San Diego County Grand Jury recommends that the County of San Diego Department of Environmental Health, Food and Housing Division:**

- 07-13:** Gain funding for increasing the number of REHS inspectors as soon as possible.

## ***COMMENDATION***

The REHS inspectors with whom we visited food service facilities were extremely knowledgeable and conversant with the laws, what constitutes violation and the expectations of these facilities for achieving compliance. In addition, as a component of

their inspection program, Registered Environmental Health Specialists also educate food service workers on site about infractions and methods for correcting them. It is a tribute to the training and dedication of the DEH, Food and Housing Division that such rigorous steps are taken to protect the public health.

## ***REQUIREMENTS AND INSTRUCTIONS***

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
  - (1) The respondent agrees with the finding
  - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
  - (1) The recommendation has been implemented, with a summary regarding the implemented action.
  - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
  - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
  - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<b><u>Responding Agency</u></b>	<b><u>Recommendations</u></b>	<b><u>Date</u></b>
<b>San Diego County Department of Environmental Health</b>	<b>07-8 through 07-13</b>	<b>08/06/07</b>